



State of Rhode Island
RHODE ISLAND BOARD OF EDUCATION
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Enclosure 6b1
September 14, 2021

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September 14, 2021

TO: Members of the Council on Elementary and Secondary Education

FROM: Amy Beretta, Appeals Committee Chair

RE: Approval of Appeals Committee Recommendation–
F. Doe v. Pawtucket School Committee
]

The Appeals Committee of the Council on Elementary and
Secondary Education met on August 17, 2021, to hear oral
argument on the appeal of the following matter:

F. Doe v. Pawtucket School Committee

**RECOMMENDATION: THAT, in the matter of F. Doe vs. Pawtucket
School Committee, the Commissioner's decision is upheld, as
presented.**

STATE OF RHODE ISLAND

**COUNCIL ON ELEMENTARY
AND SECONDARY EDUCATION**

STUDENT F. DOE, by his Father,
Petitioner,

v.

PAWTUCKET SCHOOL DEPARTMENT,
Respondent.

DECISION

Petitioner Student F. Doe, by his Father (“Doe”) has appealed from the October 26, 2020, decision of the Commissioner, wherein the Commissioner granted in part, and denied in part, Doe’s petition. Respondent Pawtucket School Department (“Pawtucket”) has also appealed the Commissioner’s decision. In that decision, the Commissioner granted in part Doe’s petition, holding (1) that Pawtucket shall investigate the allegations of bullying that Doe made, and, if appropriate, take certain further actions; (2) that Pawtucket would remove from Doe’s permanent record the record of dismissal for disorderly conduct and any description of the June 12, 2019, incident; and (3) that Pawtucket would follow its regular policy with respect to the filing and retention of incident reports not included in a student’s permanent record, and if the report is retained, provide Doe the opportunity to supplement his written statement in the school’s official incident report. In that same decision, the Commissioner denied Doe’s request for an order that Pawtucket place Doe in a private school and that Pawtucket pay for any costs related to such a placement. Doe’s father has tirelessly and effectively advocated for his son, and prevailed on the majority of items in Doe’s petition, with the exception of the request for a private placement at Pawtucket’s expense. For the reasons stated herein, we affirm the Commissioner’s decision.

The facts underlying this appeal are contained in the Commissioner’s written decision dated October 26, 2020 (RIDE No. 20-017A) (the “Decision”) as follows. At all relevant times, Doe was in the sixth grade, and is a highly intelligent, academically successful student with a provisional diagnosis of high-functioning autism spectrum disorder. *Decision at 4.* Doe’s Section 504 Plan, that was in effect at all relevant times, included, amongst other items, suggested classroom accommodations such as speaking calmly to Doe to allow him time to de-escalate, allowing Doe to meet with a member of guidance to assist with needs, and the ability for Doe to request a break in a quiet area. *Id.*

On June 12, 2019, according to the official school incident report, Doe became upset in class when he did not want to take part in a classroom game with a substitute teacher, Doe told three girls in his class that the game was an “abomination,” and one of the girls then called Doe an “abomination.” *Id.* Doe then became upset, threw a pencil at the girl, who threw the pencil back at Doe. *Id.* As the Commissioner further details in the decision’s Facts section, Doe provided a short-handwritten account of the events in which he admitted to calling the game an abomination, and that he threw a pencil at the girl after she called him an abomination. *Decision at 5.* According to Doe’s statement, he then tried to leave the classroom, and two girls tried to stop him from leaving as they thought he was going to fight the girl who had called him an abomination. *Id.* According to the girl, Doe had called her and another girl “idiotic,” she replied by calling him an “abomination,” Doe “got extra mad,” and threw a pencil at her. *Id.* Further, according to the girl, she then threw the pencil back at Doe, Doe tried to push her, and after she walked away, Doe charged at her, and two other girls held Doe back. *Id.* The substitute teacher then asked Doe to leave the room, and when Doe refused to leave, the substitute teacher called the main office, and Doe was escorted from the room by the School Resource Officer. *Id.* As a result of the incident, a

notation was made on Doe's school record that stated that due to "disorderly conduct" on June 12, 2019, Doe was the subject of a "disciplinary dismissal." That dismissal resulted in Doe missing an awards ceremony at school later that same day, at which he was to have received an award. *Id.* According to Doe's father, his son later provided a detailed account of what had occurred, but that account was not included in the incident report; and also Doe allegedly informed the Dean of Students that the girls had been bullying him all year. *Decision at 6.*

In the decision, the Commissioner determined that Doe's claim of bullying was based completely on hearsay and that it conflicted with the school's incident report that concluded Doe "was going after the girl," was "held back," and then escorted from the classroom by a School Resource Officer. *Decision at 8.* The Commissioner did determine, however, that the evidence supported "at least an *allegation* of bullying," which in turn triggered certain actions under the Pawtucket bullying policy and the Statewide Bullying Policy. Additionally, as explained further in the Commissioner's decision, the Commissioner found that the substitute teacher had not been made aware of Doe's Section 504 Plan. *Decision at 10.* Finally, the Commissioner determined that Doe's request for the extraordinary remedy of a private school placement at Pawtucket's expense was not supported by the conduct of Pawtucket in this matter; nor was there sufficient competent evidence to reach a conclusion that such a placement would be in Doe's best interest. *Decision at 13.*

Doe appealed, seeking to overturn the portion of the Commissioner's decision that was not granted – the private placement at Pawtucket's expense; and Pawtucket also appealed, seeking to overturn the Commissioner's decision in its entirety, with the exception of the denial of the private placement. On appeal, Doe alleges that the case facts and Pawtucket's actions supported a private placement. For its part, on appeal Pawtucket alleges that Doe has failed to introduce any evidence

in support of Doe’s allegations with respect to Pawtucket’s alleged failure to make the substitute teacher aware of Doe’s 504 plan, Pawtucket’s alleged failure to properly investigate an allegation of bullying, and in support of Doe’s request for a private school placement at Pawtucket’s expense; and further that the Commissioner relied on inadmissible evidence to make her findings with respect to Pawtucket’s alleged Section 504 plan violation and bullying policies.

While we commend Doe’s father for his zealous advocacy for his son, we agree with the decision of the Commissioner in full. We have reviewed the briefs and considered the well-presented arguments of both parties at oral argument. The Commissioner’s findings of fact were supported by evidence on the record, and we concur with the Commissioner’s decision granting in part and denying in part Doe’s petition. We find that the Commissioner’s decision is in no way “patently arbitrary, discriminatory, or unfair” which is the standard of review for Appeals to the Council. *Altman v. School Committee of the Town of Scituate*, 115 R.I. 399, 405 (1975).

For the reasons stated herein, the Decision of the Commissioner is affirmed.

The above is the decision recommended by the Appeals Committee after due consideration of the record, memoranda filed on behalf of the parties and oral arguments made at the hearing of the appeal on August 17, 2021.

Council on Elementary and Secondary Education,

Barbara Cottam, Chair

_____, 2021

Amy Beretta, Esq., Appeals Committee Chair

_____, 2021